

Message Text

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NSC-07 RSC-01 DRC-01 /059 W

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R 051330Z APR 74

FM AMEMBASSY TANANARIVE

TO SECSTATE WASHDC 6152

C O N F I D E N T I A L SECTION 1 OF 2 TANANARIVE 0459

E. O. 11652: GDS

TAGS: CASC, MA, US

SUBJ: W/W REPPAS: CALL ON MINISTER OF JUSTICE

REF: STATE 067386

BEGIN SUMMARY:

I CALLED ON MALAGASY MINJUSTICE ANDRIANADA 05APR TO SUGGEST EXPULSION
OF REPPAS TO PREVENT CASE FROM ADVSERSELY AFFECTING US-MALAGASY

RELATIONS. MINISTER TO TAKE MATTER UP WITH HEAD GOVT GEN RAM-
ANANTSOA AFTER LATTER'S RETURN FROM TRIP TO FRANCE. WHILE I
JUDGE FROM MIN'S REMARKS THAT THERE IS EVEN CHANCE FOR REPPAS

EXPULSION, IT IS PROBABLY TOO SOON, FOR POLITICAL REASONS,
AFTER APPELLATE COURT JUDGMENT FOR GOMR TO TAKE ACTION IMMIN-
ENTLY. MIN SUGGESTED CHANCE OFFERED BY APPEAL TO SUPREME COURT
BE PURSUED. I SHALL FOLLOW UP WITH MIN, BUT, DESPITE RISKS IN
US, DO NOT BELUEVE IT WISE PUSH TO HARD OR TOO FAST. END SUMMARY

1. I CALLED ON MINJUSTICE ANDRIANADA 05APR TO RAISE OUR CON-
CERN OVER POSSIBLE EFFECT OF REPPAS CASE ON US-MALAGASY RELAT-
IONS. I POINTED OUT THIS WAS FIRST SUBJECT RAISED WITH ME AFTER
MY ARRIVAL IN OCT72 BY FONMIN RATSIRAKA AND GEN RAMANANTSOA,
BOTH OF WHOM EXPRESSED HOPE (WHICH WE SHARE) THAT CASE WOULD
NOT ADVERSELY AFFECT RELATIONS.

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2. WHILE THERE HAD BEEN US PRESS AND CONGRESSIONAL INTEREST IN

CASE, I FELT IT HAD NOT UPSET RELATIONS IN 1973, FOR WHICH WE WERE GRATEFUL. HOWEVER, RECENT APPELLATE COURT DECISION RAISING SENTENCE AND INCREASING FINE GREATLY HAS PRODUCED WORRIES ON OUR SIDE ABOUT FUTURE EFFECT ON RELATIONS. I STATED NEWS OF APPELLATE DECISION HAS THUS FAR EVIDENTLY BEEN KEPT FROM PRESS AND CONGRESS BY REPPAS RELATIVES AND FRIENDS, BUT OFCE IT GETS OUT WE CONCERNED OVER CONGRESSIONAL REACTION BECAUSE OF DIFFICULTY OF OBTAINING UNDERSTANDING WITHIN US ABOUT DIFFERENCE BETWEEN FRENCH AND ANGLO-SAXON SYSTEMS OF JURISPRUDENCE WITH RESPECT TO IMPOSITION OF MORE SEVERE JUDGMENT ON APPEAL.

3. I PROCEEDED ENUMERATE THREE POSSIBLE AREAS IN WHICH ADVERSE CONSEQUENCES COULD OCCUR: SUGAR QUOTA FOR MADAGASCAR, LEGISLATIVE PROTECTION OF NATURAL VANILLA BY REQUIRING LABELING OF ARTIFICIAL VARIETY, AND PRESSURE BY INVESTORS AND CREDITORS TO CUT OFF AID ON BASIS OF ALLEGED CAMOUFLAGED NATIONALIZATION OF AGM ABATTOIR WITHOUT COMPENSATION. I MADE CLEAR THAT I WAS NOT RAISING THESE POINTS IN ORDER TO PLACE PRESSURE ON GOMR, BUT SIMPLY TO ENSURE AWARENESS ON BOTH SIDES OF POSSIBILITY OF TROUBLE SINCE CONGRESS CAN AND OFTEN DOES ACT INDEPENDENTLY OF EXECUTIVE BRANCH.

4. TO TRY TO LAY GROUNDWORK FOR POSSIBLE GOMR ACTION ON REPPAS ON HUMANITARIAN GROUNDS, I SAID CONSOFF HAS FOUND HIS HEALTH DETERIORATING, ESPECIALLY SINCE APPEAL DECISION. I ALSO BROUGHT UP BAD HEALTH OF REPPAS' OLD MOTHER FROM WHOM APPELLATE DECISION IS APPARENTLY BEING KEPT BECAUSE OF CONCERN OVER ITS EFFECT.

5. SAYING I WAS SURE GOMR WOULD STUDY WHAT ACTION MIGHT BE POSSIBLE UNDER THESE CIRCUMSTANCES, AND REFERRING TO MY LIMITED KNOWLEDGE MALAGASY JURISPRUDENCE, I SUGGESTED THAT EXPULSION OF REPPAS FROM MADAGASCAR MIGHT BE POSSIBLE RECOURSE, BASED ON AMOUNT SENTENCE ALREADY SERVED, GOOD CONDUCT, AND HUMANITARIAN FACTORS. I MADE NO REFERENCE TO DEPT APPROACH TO MALAGASY AMB IN WASH BECAUSE I THOUGHT THAT MIGHT IMPEL MIN TO AWAIT REPORT FROM WA H BEFORE ACTING.

6. MINISTER SAID HE WOULD DISCUSS MY APPROACH WITH RAMANANTSOA ON LATTER'S RETURN FROM FRANKE. IT WAS CLEAR IN HIS SUMMATION THAT MIN HAD TAKEN GOOD NOTE OF WHAT I SAID, INCLUDING THREE POS-
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IBILITIES OF ADVERSE ACTION ON MALAGASY INTERESTS, AND UNDERSTOOD SPIRIT IN WHICH I MADE APPROACH. HE COMMENTED HE MIGHT NOT BE ABLE CONVEY TOSME RAMANANTSOA'S POSITION AFTER TALKING TO HIM.

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7. MINISTER THEF PROCEEDED EXPRESS PERSONAL VIEWS WHICH WILL PRESUMABLY INFLUENCE RAMANANTSOA. HE SAID REPPAS COULD NOT BE EXPELLED TO COMPLETE SENTENCE IN US AS THERE IS NO JUDICIAL AGREEMENT BETWEEN US AND MADAGASCAR. HE THOUGHT IT MIGHT BE POSSIBLE CONSIDER UNCONDITIONAL EXPULSION AT POLITICALLY OPPORTUNE MOMENT.

8. BUT MINISTER NOTED APPELLATE COURT JUDGMENT RENDERED LESS THAN MONTH AGO, AND HE IMPLIED IT WAS THEREFORE SCARCELY THE "POLITICALLY OPPORTUNE MOMENT" TO CONSIDER EXPULSION. HE ALSO SPECIFICALLY MENTIONED POSSIBILITY OF PARDON AFTER SERVING HALF OF SENTNECE (NORMAL MINIMUM TIME FOR SUCH CONSIDERATION, WHICH WOULD OF COURSE REQUIRE REPPAS SERVE ABOUT ANOTHER YEAR IN PRISON).

9. MINISTER ASKED WHETHER REPPAS HAD APPEALED TO SUPREME COURT. I REPLIED AFFIRMATIVELY, BUT ADDED I UNDERSTOOD FROM REPPAS LAWYER APPEAL COULD BE WITHDRAWN AT ANY TIME IF IT STOOD AS OBSTACLE TO MALAGASY EXECUTIVE ACTION. MIN THOUGHT IT DESIRABLE PROCEED WITH APPEAL AS THERE IS NO RECONSIDERATION OF FACTS AT SUPREME COURT STAGE (BY WHICH I UNDERSTOOD HIM MEAN NO RISK OF FURTHER HARDENING OF VERDICT), BUT CHANCE THAT COURT COULD FIND LEGAL DEFECTS IN LOWER COURT PROCEEDINGS. I ASKED HOW LONG SUPREME COURT PROCEEDING MIGHT TAKE, BUT HE REPLIED THIS DEPENDS ON HOW FULL DOCKET IS.

10. (COMMENT: THOUGH MINISTER SEEMED WELL PREPARED, ON WHOLE, TO DISCUSS CASE, I DO NOT THINK HE WAE TRYING CONVEY MESSAGE TO
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ME THAT SUPREME COURT PROCEEDING COULD OFFER GOMR WAY OUT ON REPPAS CASE, AS HE HAD NOT KNOWN REPPAS HAD MADE APPEAL. I BELIEVE, RAHTER, THAT MIN WAS INFLUENCED BY THOUGHT THAT FURTHER PURSUIT OF APPEAL ROUTE GIVES GOMR MORE TIME TO REACH POLITICALLY OPPORTUNE MOMENT FOR EXECUTIVE ACTION. END COMMENT.)

1. ON REPPAS HEALTH CONDITION, MIN SAID HE HAS ONLY TO SEE PRISON DOCTOR IF HE IS GENUINELY ILL. DOCTOR CAN HOSPITALIZE HIM IF JUSTIFIED.

12. ON REPPAS' MOTHER, MIN SAID GOMR WOULD HAVE NO REASON NOTIFY HER OF APPELLATE COURT DECISION. (COMMENT: THIS, OF COURSE, EVADED POINT I WAS MAKING.)

13. COMMENTS: I PLAN INVITE MINJUSTICE TO DINNER ON 22APR WHILE AF/E DIRECTOR COOTE VISITING, AND SHALL TRY FOLLOW UP THEN ON MY APPROACH. WHILE I AM WELL AWARE OF RISKS WITHIN US ARISING FROM DELAY, I DO NOT BELIEVE IT WISE PUSH GOMR TOO HARD OR TOO FAST. MY READING OF MIN'S PERSONAL REACTION IS THAT THERE IS GOOD POSSIBILITY OF FAVORABLE ACTION EVENTUALLY ON REPPAS, BUT MORE TIME WILL HAVE TO PASS FOR POLITICAL REASONS IN VIEW GREAT PUBLIC INTEREST AND THOROUGH POPULAR APPROVAL HERE OF ACTION TAKEN.

14. WE SHALL INFORM REPPAS AND LAWYER OF ABOVE APPROACH IN GENERAL TERMS, INDICATING IT WOULD OF COURSE HAVE TO BE CONSIDERED FURTHER WITHIN GOMR. SHALL ALSO DISCUSS SUPREME COURT APPEAL FURTHER WITH LAWYER. SHALL EXPLORE WITH REPPAS QUESTION OF CONSULTING WITH PRISON DOCTOR, AS IT COULD PERHAPS OFFER HIM MEANS OF ESCAPING CURRENT PETTY PRISON HARASSMENTS. END COMMENTS

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